

**Before the State of South Carolina  
Department of Insurance**

In the matter of:

Mr. Brian K. Misenheimer

1017 Poplar Street  
Marion, South Carolina 29571.

SCDOI File Number 2002-113451.

**Default Order Revoking  
Resident Insurance Agent's  
License**

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (2002), by the State of South Carolina Department of Insurance upon Brian K. Misenheimer by both certified mail, return receipt requested, and by regular mail on October 7, 2002.

By that letter, Mr. Misenheimer was informed of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. Further, he was warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a resident insurance agent within the State of South Carolina. Despite that warning, Mr. Misenheimer has failed to respond to the Department's letter. On December 27, 2002, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance agent within the State of South Carolina, Brian K. Misenheimer was convicted by the South Carolina Circuit Court of General Sessions, Florence County, of "Breach of Trust with Fraudulent Intent", more than \$1,000, less than \$5,000 in The State v. Brian Misenheimer Criminal Docket Number 2002GS2100581, on or about April 16, 2002.

S.C. Code Ann. § 38-43-130 (2002) provides: "The director or his designee may revoke or suspend an agent's license after ten day's notice...when it appears that an agent has been convicted of a crime of moral involving moral turpitude...." The crime of Breach of Trust with Fraudulent Intent involves moral turpitude. In re Derrick, 301 S.C. 367, 392 S.E.2d 180 (1990).

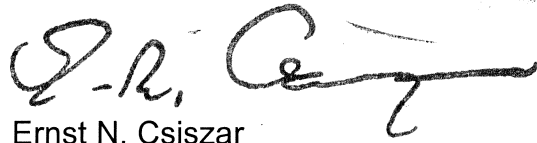
In accordance with my findings of fact, and considering Brian Misenheimer's failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that Mr. Misenheimer was convicted of a crime of moral turpitude, and that his resident insurance agent license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-40-10, *et seq.* (1991 and Supp. 2002). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report." S.C. Code Ann. § 38-3-110 (4) (2002).

It is therefore ordered that Brian K. Misenheimer's license to transact business as a resident insurance agent within the State of South Carolina be, and is hereby, revoked, and that no license, issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Brian Misenheimer is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance agent within the State of South Carolina.

This order takes effect upon the date of my signature below.

A handwritten signature in black ink, appearing to read "E. N. Csiszar", with a long horizontal flourish extending to the right.

Ernst N. Csiszar  
Director

27 December 2002, at  
Columbia, South Carolina

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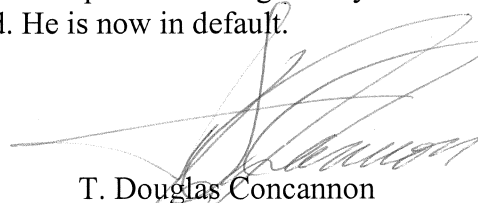
Brian K. Misenheimer  
1017 Poplar Street  
Marion, South Carolina 29571.

**Affidavit of Default**

Personally appeared before me T. Douglas Concannon, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was an attorney representing the State of South Carolina Department of Insurance in this administrative action. He further stated the following:

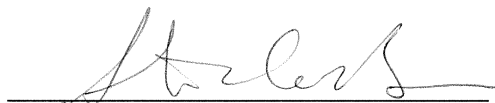
The Department served notice on Brian K. Misenheimer, at the address detailed above by a Letter of Allegation and Notice of Opportunity for a Public Hearing that the Department would request the Director of Insurance to summarily revoke his license to act as a resident insurance agent within the State of South Carolina in thirty days. The Department served the Notice, pursuant to S.C. Code Ann. § 38-3-170 (2002), by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." That Notice further informed Mr. Misenheimer of his opportunity, within thirty days, to request in writing a public hearing.

The United States Postal Service effected service of the Notice by certified mail, return receipt requested, and by regular mail, on or about September 10, 2002, and again on October 7, 2002. Mr. Misenheimer has made no request for a public hearing or any other response to the Notice. The time in which to do so has expired. He is now in default.



T. Douglas Concannon  
Associate General Counsel

Sworn to and subscribed before me  
this 30th. day of December, 2002.



Steven R. DuBois  
Notary Public for the State of South Carolina  
My Commission Expires May 10, 2009

South Carolina Department of Insurance  
Post Office Box 100105  
Columbia, South Carolina 29202-3105  
(803) 737-6132